

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WMI LIQUIDATING TRUST,

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE
CORPORATION, in its corporate capacity, *et al.*,

Defendants.

Civil Action No. 1:14-cv-1097 (GMS)

**PLAINTIFF WMI LIQUIDATING TRUST’S MOTION FOR
JUDGMENT ON THE PLEADINGS ON COUNT I OF
CERTAIN EMPLOYEE DEFENDANTS’ COUNTERCLAIMS**

Pursuant to Fed. R. Civ. P. 12(c), WMI Liquidating Trust (“WMILT” or “Plaintiff”), as a successor in interest to Washington Mutual, Inc. (“WMI”), a former multiple savings and loan holding company that owned, among other subsidiaries, WMI Investment Corp. (together with WMI, the “Debtors”) and Washington Mutual Bank (“WMB”), by and through its undersigned counsel, Richards, Layton & Finger, P.A. and Weil, Gotshal & Manges LLP, hereby moves (the “Motion”) for an order, substantially similar to the proposed form of order attached hereto as **Exhibit A**, for: (I) judgment on the pleadings on: (a) Count I of the Counterclaims of Defendants Todd H. Baker, Sean Beckett, Anthony Joseph Bozzuti, Alfred Brooks, Gregory C. Camas, Thomas W. Casey, Deborah D. Horvath, Rajiv Kapoor, Marc Malone, John P. McMurray, Thomas E. Morgan, Stephen J. Rotella, David Schneider, Genevieve Smith, Radha Thompson, Ann Tierney and Robert J. Williams, Jr. against WMILT [W.D. Wash. D.I. 173],¹ (b) Count I of

¹ For ease of reference, the docket in the above-captioned proceeding is referred to as [D. Del. D.I.]; the docket of the declaratory judgment action that was initially filed by WMILT in the United States District Court for the Western District of Washington (the “Washington District Court”), *WMI Liquidating Trust v. FDIC*, Case No. 2:13-cv-01706-RAJ (W.D. Wash.) is referred to as [W.D. Wash. D.I.]; the docket of the Debtors’ chapter 11 cases, *In re Washington Mutual, Inc.*, Case No. 08-12229 (MFW) (Bankr. D. Del.) (the “Bankruptcy Court”) is referred to as

the Counterclaims of Defendant Craig E. Tall against WMILT [W.D. Wash. D.I. 146], (c) Count I of the Counterclaims of Defendant Susan Allison against WMILT [W.D. Wash. D.I. 171], (d) Count I of the Counterclaims of Defendant Jeffrey Jones against WMILT [W.D. Wash. D.I.172], (e) Count I of the Counterclaims of Defendant Robert Batt against WMILT [W.D. Wash. D.I. 174], (f) Count I of the Counterclaims of Defendant Patricia Schulte against WMILT [W.D. Wash. D.I.175], (g) Count I of the Counterclaims of Defendant Scott Shaw against WMILT [W.D. Wash. D.I. 176], (h) Count I of the Counterclaims of Defendant Steven Kenneth Stearns against WMILT [W.D. Wash. D.I. 177], (i) Count I of the Counterclaims of Defendant Randy Melby against WMILT [W.D. Wash. D.I. 178], (j) Count I of the Counterclaims of Defendant Michelle McCarthy against WMILT [W.D. Wash. D.I. 179], (k) Count I of the Counterclaims of Defendant Jacob E. Sorenson against WMILT [Adv. Pro. D.I. 36], and (l) Count I of the Counterclaims of Defendant Keith O. Fukui against WMILT [Adv. Pro. D.I. 37]; and (II) a declaration that WMILT is a Covered Company under 12 U.S.C. § 1828(k) and that the Federal Deposit Insurance Corporation has jurisdiction over WMILT.

In further support of this Motion, WMILT refers to and relies on its *Memorandum of Law in Support of Plaintiff WMI Liquidating Trust's Motion for Judgment on the Pleadings on Count I of Certain Employee Defendants' Counterclaims*, filed contemporaneously herewith.

[Bankr. D.I.]; and the docket for the adversary proceeding, *WMI Liquidating Trust v. FDIC*, Adv. Pro. No. 14-50435-MFW (Bank. D. Del.), in the Bankruptcy Court is referred to as [Adv. Pro. D.I.].

Dated: June 28, 2016
Wilmington, Delaware



Mark D. Collins (No. 2981)
Marcos A. Ramos (No. 4450)
Amanda R. Steele (No. 5530)
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701

– and –

Brian S. Rosen, Esq.
John P. Mastando III, Esq.
Cheryl A. James, Esq.
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for WMI Liquidating Trust